IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**

**and**
**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION No.14776 of 2004**

Between:

M/s. Indian Bank, Kakatiya Nagar Branch,
Hyderabad, Rep. by its Manager.

**..... PETITIONER**

AND

1 The Presiding Officer, Debts Recovery Tribunal,
Triveni Complex, Abids, Hyderabad.
2 M/s. E.C.E. Industries Limited,

(formerly known as A.P. Electrical Equipment Corporation)
Ashok Marg, Sanathnagar, Hyderabad, Rep. by its Vice-President

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the 1st respondent in directing the petitioner Bank to deposit a sum of Rs.18,47,399.19 p.s. on or before 23-08-2004 vide order dt. 22-07-2004 passed in M.A.No.89/2004 in M.A.No.119/2002 in O.A.No.102/95, during the pendency of Review Petition No.2/2004, as illegal and consequently QUASH the said order dt. 22-07-2004 in the interest of justice.

Counsel for the Petitioner: Mr.P.SHIV KUMAR

Counsel for the Respondent No.1: Mr.A.RAJASHEKAR REDDY (SC

FOR CG) (not present today)

Counsel for the Respondent No.2: Mr.N.V.Jagannath (not present today)

**The Court made the following :**

**ORAL ORDER :** (per **THE HON'BLE THE CHIEF JUSTICE**)

The challenge in the writ petition is to the interim order passed by the Presiding Officer, Debts Recovery Tribunal, Hyderabad calling upon the writ petitioner-Bank, who sought review of the Order passed by the Tribunal, to deposit a sum of Rs.18,47,399.19 ps as a condition precedent for hearing review application.

The aforementioned order has been passed in favour of E.C.E.Industries Limited, Hyderabad, who has been arrayed as 2nd respondent herein. Show cause notice issued to the 2nd respondent has been duly served, but nobody appears on behalf of respondents.

We have gone through the record.

It appears that the application filed by E.C.E. Industries Limited in M.A.No.119 of 2002 was allowed on 11-11-2002. Petitioner's case is that it came to know of the said order dated 11-11-2002 on the basis of a communication dated 29-5-2004 addressed by the counsel for 2nd respondent claiming refund of the amount. Thereafter, petitioner filed Review Petition No.2 of 2004 seeking review of the order dated 11-11-2002 on the ground that it had no opportunity of being heard. In such like situation, action of Debts Recovery Tribunal in insisting the Bank to make deposit of a sum of Rs.18,47,399.19 ps as a condition precedent, which is a onerous one, is not justified. Bank is not such an institution, which, in the event of dismissal of review, will not pay the amount, in case it is so held to be liable.

Accordingly, the Order of the Tribunal impugned in the Writ Petition is set aside and the writ petition is allowed with a direction to the Tribunal to hear and decide the review application filed by the petitioner on merits and pass orders in accordance with law without insisting them to deposit any amount as a condition precedent.

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**(DEVINDER GUPTA, CJ)**

30th September,2004

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**(C.V. RAMULU,J)**

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, Debts Recovery Tribunal,
   Triveni Complex, Abids, Hyderabad.
2. 2CD copies